
HOUSE BILL No. 1817

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-33; IC 5-10; IC 5-14-3-2; IC 35-47-4.5-3.

Synopsis: Law enforcement on riverboats. Prohibits the Indiana gaming commission from contracting with the state police department for the performance of certain duties required during riverboat gambling operations. Requires the Indiana gaming commission to employ its own enforcement officers. Requires the gaming commission to place a priority upon hiring retired police officers. Vests gaming enforcement officers with certain police powers. Provides that gaming enforcement officers are members of the state excise police and conservation officers' retirement plan. Makes other conforming changes.

Effective: July 1, 2001; January 1, 2002.

Turner, Tincher

January 17, 2001, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.

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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1817

A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-33-4-3, AS AMENDED BY P.L.14-2000,
2 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2002]: Sec. 3. (a) The commission shall do the
4 following:

5 (1) Adopt rules that the commission determines necessary to
6 protect or enhance the following:

7 (A) The credibility and integrity of gambling operations
8 authorized by this article.

9 (B) The regulatory process provided in this article.

10 (C) The natural environment and scenic beauty of Patoka
11 Lake.

12 (2) Conduct all hearings concerning civil violations of this article.

13 (3) Provide for the establishment and collection of license fees
14 and taxes imposed under this article.

15 (4) Deposit the license fees and taxes in the state gaming fund
16 established by IC 4-33-13.

17 (5) Levy and collect penalties for noncriminal violations of this

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article.

(6) Deposit the penalties in the state gaming fund established by IC 4-33-13.

(7) Be present through the commission's ~~inspectors and agents~~ **enforcement officers** during the time gambling operations are conducted on a riverboat to do the following:

(A) Certify the revenue received by a riverboat.

(B) Receive complaints from the public.

(C) Conduct other investigations into the conduct of the gambling games and the maintenance of the equipment that the commission considers necessary and proper.

(D) With respect to riverboats that operate on Patoka Lake, ensure compliance with the following:

(i) IC 14-26-2-6.

(ii) IC 14-26-2-7.

(iii) IC 14-28-1.

(8) Adopt emergency rules under IC 4-22-2-37.1 if the commission determines that:

(A) the need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need; and

(B) an emergency rule is likely to address the need.

(b) The commission shall begin rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 to adopt an emergency rule adopted under subsection (a)(8) not later than thirty (30) days after the adoption of the emergency rule under subsection (a)(8).

SECTION 2. IC 4-33-4-3.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 3.6. (a) The commission ~~may shall~~ employ ~~or contract for inspectors and agents~~ **enforcement officers to perform the duties** required under section 3(7) of this chapter. The licensed owners shall, in the manner prescribed by the rules of the commission, reimburse the commission for the salaries and other expenses of the ~~inspectors and agents~~ **enforcement officers** required to be present during the time gambling operations are conducted on a riverboat.

(b) **Beginning January 1, 2002, the commission may not contract with the state police department to perform the duties required under section 3(7) of this chapter.**

SECTION 3. IC 4-33-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]:

Chapter 4.5. Gaming Commission Enforcement Officers



1 **Sec. 1. (a)** The commission shall employ qualified individuals to
 2 serve as enforcement officers of the commission. Enforcement
 3 officers shall be employed so that not more than one-half (1/2) the
 4 number of enforcement officers are members of the same political
 5 party. The commission shall issue to an enforcement officer a
 6 certificate of employment under the seal of the commission. The
 7 courts of this state shall take judicial notice of a certificate of
 8 employment.

9 **(b)** The gaming commission shall give priority to applications
 10 for employment submitted by retired police officers.

11 **Sec. 2. (a)** An enforcement officer is vested with full police
 12 powers and duties to enforce the provisions of this title.

13 **(b)** An enforcement officer may issue a summons for infraction
 14 or misdemeanor violations if the defendant promises to appear by
 15 signing the summons. A defendant who fails to appear is subject to
 16 the penalties provided by IC 35-44-3-6.5. Upon the defendant's
 17 failure to appear, the court shall issue a warrant for the arrest of
 18 the defendant.

19 **(c)** In addition to the powers and duties under subsection (a), an
 20 enforcement officer may act as an officer for the arrest of
 21 offenders against the laws of this state if the enforcement officer
 22 reasonably believes that a crime is or is about to be committed or
 23 attempted in the enforcement officer's presence.

24 **Sec. 3.** Each enforcement officer shall execute a surety bond in
 25 the amount of one thousand dollars (\$1,000), with surety approved
 26 by the commission, and an oath of office, both of which must be
 27 filed with the executive secretary of the commission.

28 **Sec. 4. (a)** The injury to, injury to the health of, or death of an
 29 enforcement officer is compensable under the appropriate
 30 provisions of IC 22-3-2 through IC 22-3-7 if the injury, injury to
 31 the health, or death arises out of and in the course of the
 32 performance of the officer's duties as an enforcement officer.

33 **(b)** For purposes of subsection (a) and IC 22-3-2 through
 34 IC 22-3-7, an enforcement officer is conclusively presumed to have
 35 accepted the compensation provisions provided in those provisions.

36 **Sec. 5.** An eligible enforcement officer who retires with at least
 37 twenty (20) years of service as an enforcement officer may retain
 38 the officer's service weapon. The officer may receive, in recognition
 39 of the officer's service to the commission and to the public, a badge
 40 that indicates that the officer is retired. The commission shall issue
 41 the retiring officer an identification card stating the officer's name
 42 and rank, signifying that the officer is retired, and noting the

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officer's authority to retain the service weapon.

Sec. 6. (a) The commission shall categorize salaries of enforcement officers within each rank based upon the rank held and the number of years of service in the commission through the tenth year. The salary ranges that the board assigns to each rank must be divided into a base salary and ten (10) increments above the base salary with:

(1) the base salary in the rank paid to a person with less than one (1) year of service in the commission; and

(2) the highest salary in the rank paid to a person with at least ten (10) years of service in the commission.

(b) For purposes of creating the salary matrix prescribed by this section, the commission may not approve salary ranges for any rank that are less than the salary ranges effective for state police officers serving on riverboats as of January 1, 2001.

(c) The salary matrix prescribed by this section shall be reviewed and approved by the budget agency before implementation.

SECTION 4. IC 5-10-1.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 1. Each retirement plan for employees of the state or of a political subdivision shall report annually on September 1 to the public employees' retirement fund the information from the preceding fiscal year necessary for the actuary of the fund to perform an actuarial valuation of each plan. Where the director and actuary of the fund consider it appropriate, the actuary may combine one (1) retirement plan with another or with the public employees' retirement fund for the purposes of the actuarial valuation. The retirement plans covered by this chapter are the following:

(1) The state excise police, **gaming enforcement**, and conservation enforcement officers' retirement plan established under IC 5-10-5.5.

(2) The "trust fund" and "pension trust" of the state police department established under IC 10-1-2.

(3) Each of the police pension funds established or covered under IC 19-1-18, IC 19-1-30, IC 19-1-25-4, or IC 36-8.

(4) Each of the firemen's pension funds established or covered under IC 19-1-37, IC 18-1-12, IC 19-1-44, or IC 36-8.

(5) Each of the retirement funds for utility employees authorized under IC 19-3-22 or IC 36-9 or established under IC 19-3-31.

(6) Each county police force pension trust and trust fund authorized under IC 17-3-14 or IC 36-8.

(7) The Indiana judges' retirement fund established under



IC 33-13-8.

(8) Each retirement program adopted by a board of a local health department as authorized under IC 16-1-4-25 (before its repeal) or IC 16-20-1-3.

(9) Each retirement benefit program of a joint city-county health department under IC 16-1-7-16 (before its repeal).

(10) Each pension and retirement plan adopted by the board of trustees or governing body of a county hospital as authorized under IC 16-12.1-3-8 (before its repeal) or IC 16-22-3-11.

(11) Each pension or retirement plan and program for hospital personnel in certain city hospitals as authorized under IC 16-12.2-5 (before its repeal) or IC 16-23-1.

(12) Each retirement program of the health and hospital corporation of a county as authorized under IC 16-12-21-27 (before its repeal) or IC 16-22-8-34.

(13) Each pension plan provided by a city, town, or county housing authority as authorized under IC 36-7.

(14) Each pension and retirement program adopted by a public transportation corporation as authorized under IC 36-9.

(15) Each system of pensions and retirement benefits of a regional transportation authority as authorized or required by IC 36-9.

(16) Each employee pension plan adopted by the board of an airport authority under IC 8-22-3.

(17) The pension benefit paid for the national guard by the state as established under IC 10-2-4.

(18) The pension fund allowed employees of the Wabash Valley interstate commission as authorized under IC 13-5-1-3.

(19) Each system of pensions and retirement provided by a unit under IC 36-1-3.

SECTION 5. IC 5-10-1.7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 1. (a) The retirement plans covered by this chapter are:

(1) The state excise police, **gaming enforcement**, and conservation officers' retirement plan, established under IC 5-10-5.5.

(2) The public employees' retirement fund, established under IC 5-10.3-2.

(3) The trust fund and pension trust of the department of state police, established under IC 10-1-2.

(4) The Indiana state teachers' retirement fund, established under IC 21-6.1-2.

(5) The Indiana judges' retirement fund, established under

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IC 33-13-8.

(6) The police officers' and firefighters' pension and disability fund established under IC 36-8-8-4.

(b) As used in this chapter:

"Board" means the board of trustees of a retirement plan covered by this chapter.

SECTION 6. IC 5-10-5.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 1. As used in this chapter and unless the context clearly denotes otherwise:

(a) "Department" means the Indiana department of natural resources.

(b) "Commission" means the Indiana alcoholic beverage commission.

(c) "Officer" means any Indiana state excise police officer, ~~or~~ any Indiana state conservation enforcement officer, **or any Indiana gaming enforcement officer.**

(d) "Participant" means any officer who has elected to participate in the retirement plan created by this chapter.

(e) "Salary" means the total compensation, exclusive of expense allowances, paid to any officer by the department or the commission, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

(f) "Average annual salary" means the average annual salary of an officer during the five (5) years of highest annual salary in the ten (10) years immediately preceding an officer's retirement date, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

(g) "Public employees' retirement act" means IC 5-10.3.

(h) "Public employees' retirement fund" means the public employees' retirement fund created by IC 5-10.3-2.

(i) "Interest" means the same rate of interest as is specified under the public employees' retirement law.

(j) "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

(k) Other words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them as set forth in IC 5-10.3-1.

SECTION 7. IC 5-10-5.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 2. There is hereby created a state excise police, **gaming enforcement**, and conservation enforcement officers' retirement plan to establish a means of providing

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special retirement, disability and survivor benefits to employees of the department, **the Indiana gaming commission**, and the **Indiana alcoholic beverage** commission who are engaged exclusively in the performance of law enforcement duties.

SECTION 8. IC 5-10-5.5-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 2.5. (a) As used in this chapter, "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

(b) The state excise police, **gaming enforcement**, and conservation officers' retirement plan shall satisfy the qualification requirements in Section 401 of the Internal Revenue Code, as applicable to the retirement plan. In order to meet those requirements, the retirement plan is subject to the following provisions, notwithstanding any other provision of this chapter:

(1) The board shall distribute the corpus and income of the retirement plan to participants and their beneficiaries in accordance with this chapter.

(2) No part of the corpus or income of the retirement plan may be used or diverted to any purpose other than the exclusive benefit of the participants and their beneficiaries.

(3) Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits any participant would otherwise receive under this chapter.

(4) If the retirement plan is terminated, or if all contributions to the retirement plan are completely discontinued, the rights of each affected participant to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(5) All benefits paid from the retirement plan shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. In order to meet those requirements, the retirement plan is subject to the following provisions:

(A) The life expectancy of a participant, the participant's spouse, or the participant's beneficiary shall not be recalculated after the initial determination, for purposes of determining benefits.

(B) If a participant dies before the distribution of the

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participant's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the participant died.

(C) The amount of an annuity paid to a participant's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Internal Revenue Code.

(6) The board may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of participants or beneficiaries;

in a manner that discriminates in favor of participants who are considered officers, supervisors, or highly compensated, as prohibited under Section 401(a)(4) of the Internal Revenue Code.

(7) Benefits paid under this chapter may not exceed the maximum benefit specified by Section 415 of the Internal Revenue Code.

(8) The salary taken into account under this chapter may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.

(9) The board may not engage in a transaction prohibited by Section 503(b) of the Internal Revenue Code.

SECTION 9. IC 5-10-5.5-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 3.5. The state excise police, **gaming enforcement**, and conservation enforcement officers' retirement plan shall be administered in a manner that is consistent with the Americans with Disabilities Act, to the extent required by the Act.

SECTION 10. IC 5-10-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 6. (a) The state police department, conservation officers of the department of natural resources, **gaming enforcement officers of the Indiana gaming commission**, and the state excise police may establish common and unified plans of self-insurance for their employees, including retired employees, as separate entities of state government. These plans may be administered by a private agency, business firm, limited liability company, or corporation.

(b) The state agencies listed in subsection (a) may not pay as the employer portion of benefits for any employee or retiree an amount greater than that paid for other state employees for group insurance.

SECTION 11. IC 5-10-10-4, AS AMENDED BY P.L.66-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JANUARY 1, 2002]: Sec. 4. As used in this chapter, "public safety officer" means a state police officer, county sheriff, county police officer, correctional officer, excise police officer, county police reserve officer, city police reserve officer, conservation enforcement officer, **gaming enforcement officer**, town marshal, deputy town marshal, probation officer, or state university police officer appointed under IC 20-12-3.5.

SECTION 12. IC 5-14-3-2, AS AMENDED BY P.L.256-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 2. As used in this chapter:

"Copy" includes transcribing by handwriting, photocopying, xerography, duplicating machine, duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage, and reproducing by any other means.

"Direct cost" means one hundred five percent (105%) of the sum of the cost of:

- (1) the initial development of a program, if any;
- (2) the labor required to retrieve electronically stored data; and
- (3) any medium used for electronic output;

for providing a duplicate of electronically stored data onto a disk, tape, drum, or other medium of electronic data retrieval under section 8(g) of this chapter, or for reprogramming a computer system under section 6(c) of this chapter.

"Electronic map" means copyrighted data provided by a public agency from an electronic geographic information system.

"Enhanced access" means the inspection of a public record by a person other than a governmental entity and that:

- (1) is by means of an electronic device other than an electronic device provided by a public agency in the office of the public agency; or
- (2) requires the compilation or creation of a list or report that does not result in the permanent electronic storage of the information.

"Facsimile machine" means a machine that electronically transmits exact images through connection with a telephone network.

"Inspect" includes the right to do the following:

- (1) Manually transcribe and make notes, abstracts, or memoranda.
- (2) In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.
- (3) In the case of public records available:
 - (A) by enhanced access under section 3.5 of this chapter; or
 - (B) to a governmental entity under section 3(c)(2) of this

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- 1 chapter;
 2 to examine and copy the public records by use of an electronic
 3 device.
 4 (4) In the case of electronically stored data, to manually transcribe
 5 and make notes, abstracts, or memoranda or to duplicate the data
 6 onto a disk, tape, drum, or any other medium of electronic
 7 storage.
 8 "Investigatory record" means information compiled in the course of
 9 the investigation of a crime.
 10 "Patient" has the meaning set out in IC 16-18-2-272(d).
 11 "Person" means an individual, a corporation, a limited liability
 12 company, a partnership, an unincorporated association, or a
 13 governmental entity.
 14 "Provider" has the meaning set out in IC 16-18-2-295(a) and
 15 includes employees of the state department of health or local boards of
 16 health who create patient records at the request of another provider or
 17 who are social workers and create records concerning the family
 18 background of children who may need assistance.
 19 "Public agency" means the following:
 20 (1) Any board, commission, department, division, bureau,
 21 committee, agency, office, instrumentality, or authority, by
 22 whatever name designated, exercising any part of the executive,
 23 administrative, judicial, or legislative power of the state.
 24 (2) Any:
 25 (A) county, township, school corporation, city, or town, or any
 26 board, commission, department, division, bureau, committee,
 27 office, instrumentality, or authority of any county, township,
 28 school corporation, city, or town;
 29 (B) political subdivision (as defined by IC 36-1-2-13); or
 30 (C) other entity, or any office thereof, by whatever name
 31 designated, exercising in a limited geographical area the
 32 executive, administrative, judicial, or legislative power of the
 33 state or a delegated local governmental power.
 34 (3) Any entity or office that is subject to:
 35 (A) budget review by either the state board of tax
 36 commissioners or the governing body of a county, city, town,
 37 township, or school corporation; or
 38 (B) an audit by the state board of accounts.
 39 (4) Any building corporation of a political subdivision that issues
 40 bonds for the purpose of constructing public facilities.
 41 (5) Any advisory commission, committee, or body created by
 42 statute, ordinance, or executive order to advise the governing

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body of a public agency, except medical staffs or the committees of any such staff.

(6) Any law enforcement agency, which means an agency or a department of any level of government that engages in the investigation, apprehension, arrest, or prosecution of alleged criminal offenders, such as the state police department, the police or sheriff's department of a political subdivision, prosecuting attorneys, members of the excise police division of the alcoholic beverage commission, conservation officers of the department of natural resources, **gaming enforcement officers of the Indiana gaming commission**, and the security division of the state lottery commission.

(7) Any license branch staffed by employees of the bureau of motor vehicles commission under IC 9-16.

(8) The state lottery commission, including any department, division, or office of the commission.

(9) The Indiana gaming commission established under IC 4-33, including any department, division, or office of the commission.

(10) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

"Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, used, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

"Standard-sized documents" includes all documents that can be mechanically reproduced (without mechanical reduction) on paper sized eight and one-half (8 1/2) inches by eleven (11) inches or eight and one-half (8 1/2) inches by fourteen (14) inches.

"Trade secret" has the meaning set forth in IC 24-2-3-2.

"Work product of an attorney" means information compiled by an attorney in reasonable anticipation of litigation and includes the attorney's:

(1) notes and statements taken during interviews of prospective witnesses; and

(2) legal research or records, correspondence, reports, or memoranda to the extent that each contains the attorney's opinions, theories, or conclusions.

This definition does not restrict the application of any exception under section 4 of this chapter.

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SECTION 13. IC 35-47-4.5-3, AS ADDED BY P.L.70-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 3. As used in this chapter, "public safety officer" means:

- (1) a state police officer;
- (2) a county sheriff;
- (3) a county police officer;
- (4) a correctional officer;
- (5) an excise police officer;
- (6) a county police reserve officer;
- (7) a city police officer;
- (8) a city police reserve officer;
- (9) a conservation enforcement officer;
- (10) **a gaming enforcement officer;**
- (11) a town marshal;
- ~~(11)~~ (12) a deputy town marshal;
- ~~(12)~~ (13) a state university police officer appointed under IC 20-12-3.5;
- ~~(13)~~ (14) a probation officer;
- ~~(14)~~ (15) a firefighter (as defined in IC 9-18-34-1);
- ~~(15)~~ (16) an emergency medical technician; or
- ~~(16)~~ (17) a paramedic.

SECTION 14. [EFFECTIVE JULY 1, 2001] (a) **Notwithstanding IC 4-33-4.5, as added by this act, the Indiana gaming commission may adopt rules necessary for the training and employment of gaming enforcement officers before January 1, 2002.**

(b) **This SECTION expires January 2, 2002.**

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